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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,540	12/31/2003	Richard F. Gladney	SMCY-P02-099	5566

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EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,540

Applicant(s)

GLADNEY, RICHARD F.

Examiner

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/03, 7/12 & 8/01</u> . | 6) <input type="checkbox"/> Other: ____. |

Election/Restrictions

Applicant's election without traverse of claims 14-19 drawn to the mattress in the reply filed on 6/24/05 is acknowledged.

Claims 1-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/24/05.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-18, 20-21, and 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,040,255 to Barber.

Claim 14, Barber discloses a mattress comprising
a substantially rigid bottom panel (12,20);
a perimeter sidewall (14,16) joined to the bottom panel, said bottom panel and perimeter sidewall defining an interior cavity; and
an innercore 18 disposed within the cavity,
wherein said innercore is secured to the bottom panel by an adhesive at least proximate to the perimeter sidewall (col. 2 lines 25-40).

Claim 15, wherein the innercore comprises pocketed springs and the adhesive bonds fabric surrounding the pocketed springs to the bottom panel (col. 2 lines 25-33).

Claim 16, Barber discloses mattress comprising
a platform (12,20) made of a composite material comprising foam (col. 2 lines 60-65),

a perimeter sidewall (14,16) joined to the platform, said platform and perimeter sidewall defining an interior cavity; and

an innercore 18 disposed within the cavity and secured to the platform by an adhesive at least proximate to the perimeter sidewall (col. 2 lines 25-40).

Claim 17, wherein the platform comprises a plurality of layers (12,20).

Claim 18, wherein the mattress is a two sided mattress, with the platform capable of forming a second sleeping surface.

Claim 20, further comprising an upholstery layer disposed over a top surface of the innercore (col. 2 lines 65-68).

Claim 21, wherein the perimeter sidewall is made of foam.

Claim 23, wherein the bottom panel forms a substantially rigid base platform that comprises a layer made of foam and providing support to the innercore.

Claim 24, wherein the innercore is a fabric-encased spring coil.

Claim 25, wherein the innercore comprises a block of resilient foam 22.

Claim 26, wherein the perimeter sidewall is attached to a peripheral region of a major surface of the bottom panel by an adhesive (col. 2 lines 17-22).

Claim 27, wherein the perimeter sidewall comprises a plurality of sidewall sections (14,16).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 22, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,040,255 to Barber in view of U.S. Pat. No. 6,760,940 to Gladney et al..

Claims 19 and 22, Barber discloses all of the Applicant's claimed limitations except for having the platform comprise a high density polyurethane foam having a density of approximately 1.85 lbs./cu.ft. and a firmness above 30 ILD. Gladney discloses a mattress employing a high density polyurethane foam having a density of approximately 1.85 lbs./cu.ft. and a firmness above 30 ILD (col. 3 lines 49-58). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a high density polyurethane foam as taught by Gladney in order to provide varying degrees of firmness or softness to accommodate individual preferences.

Claim 28, Barber discloses all of the Applicant's claimed limitations except for a wire. Gladney discloses a mattress having a wire 44. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a wire as taught by Gladney in order to secure the inner core around it's periphery to the mattress of Barber.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 571-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



HEATHER SHACKELFORD
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